

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

Plaintiff,

v.

REXMET CORPORATION

Defendant.

Civil Action No. \_\_\_\_\_

**COMPLAINT**

Plaintiff, the United States of America ("United States"), by authority of the Attorney General and through the undersigned attorneys, acting at the request of the Administrator of the United States Environmental Protection Agency ("EPA"), files this complaint and alleges as follows:

**NATURE OF THE ACTION**

1. This is a civil action under Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), as amended, 42 U.S.C. §§ 9606 and 9607, for injunctive relief and recovery of response costs incurred by the United States in connection with the North Penn Area Six Superfund Site located in Montgomery County, Pennsylvania. The United States also seeks a declaratory judgment, pursuant to Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2), and 28 U.S.C. § 2201 on the Defendant's liability for future response costs that will be binding in any subsequent action or actions to recover further response costs incurred by the United States.

## **JURISDICTION AND VENUE**

2. This Court has jurisdiction over the subject matter of this action and the parties hereto pursuant to 28 U.S.C. §§ 1345 and 42 U.S.C. § 9613(b).

3. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) and 42 U.S.C. § 9613(b) because the releases of hazardous substances giving rise to the claim occurred in this district and the Site is located in this district.

## **DEFENDANT**

4. Defendant Rexmet Corporation ("Rexmet") is corporation under the laws of the Commonwealth of Pennsylvania.

5. Rexmet was previously named "J.W. Rex Corporation." In about 1979, the company changed its name to "Rexmet Corporation." J.W. Rex Corporation and Rexmet are the same legal entity.

## **GENERAL ALLEGATIONS**

### **Site Description and Background**

6. The North Penn Area Six Superfund Site ("Site") is located in and around the Borough of Lansdale in Montgomery County, Pennsylvania.

7. The Site consists of a number of non-contiguous areas of soil contamination and a contaminated groundwater plume underlying approximately 1000 acres.

8. Soils and groundwater at the Site are contaminated with a number of hazardous

substances, including trichloroethene ("TCE"), perchloroethene ("PCE") and other volatile organic compounds.

9. The Site is located within the North Penn Water Authority ("NPWA") service district. The NPWA relies on groundwater as a source of drinking water. Because of the contamination, the NPWA closed at least one of its intake wells and installed treatment equipment at others.

10. The Site is divided into three Operable Units ("OU"s). OU1 and OU2 pertain to soil contamination and OU3 pertains to groundwater contamination.

11. EPA placed the Site on the National Priorities List ("NPL") on March 31, 1989, pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605. The NPL, codified at 40 C.F.R. Part 300, Appendix B, has been promulgated pursuant to Section 105(a)(8)(B) of CERCLA, 42 U.S.C. § 9605(a)(8)(B).

12. EPA performed a Remedial Investigation / Feasibility Study ("RI/FS") for OU3 pursuant to 40 C.F.R. Part 300.430. The OU3 RI/FS report, issued August, 1999, documents that groundwater at the Site is contaminated with trichloroethene ("TCE"), tetrachloroethene ("PCE"), and other hazardous substances as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

13. EPA issued a Record of Decision ("ROD") for OU3 on August 10, 2000, pursuant to 40 C.F.R. Part 300.430. The ROD documents EPA's selected remedy for the Site. The major components of the selected remedy include completion of a groundwater remedial design study; installation, operation and maintenance of groundwater extraction wells; installation, operation and maintenance of air stripping equipment at the extraction wells to treat groundwater to required levels; construction, operation, and maintenance of a pipeline from the groundwater treatment systems to the nearest surface water body or storm drain; and periodic sampling of

groundwater and treated water to ensure the treatment components are effective and that groundwater remediation is progressing towards the cleanup goals.

#### **Relationship of Defendant to the Site**

14. Rexmet is the owner and operator of a facility located at 8<sup>th</sup> Street and Valley Forge Road in Lansdale, Pennsylvania. This facility is referred to as the "J.W. Rex Property."

15. Rexmet has owned and operated the J.W. Rex Property since the late 1950s.

16. Rexmet conducts operations involving the heat treatment of metals at the J.W. Rex Property.

17. During the time period that Rexmet has owned and operated the J.W. Rex Property, hazardous substances have been deposited, stored, disposed of, placed or otherwise located there.

#### **CERCLA Liability**

18. Rexmet is a "person" within the meaning of Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

19. Rexmet is a "covered person" under Section 107(a)(1) of CERCLA, 42 U.S.C. § 9607(a)(1).

20. The J.W. Rex Property is a "facility" within the meaning of Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

21. The substances contaminating the soil and groundwater at the J.W. Rex Property,

including TCE and PCE, are “hazardous substances” within the meaning of Sections 101(14), 101(22), 104(a) and 107(a) of CERCLA, 42 U.S.C. §§ 9601(8), 9601(14), 9601(22), 9604(a), and 9607(a).

22. Hazardous substances were “disposed of” at the Site within the meaning of Sections 101(14), 101(29) and 107(a) of CERCLA, 42 U.S.C. §§ 9601(14), 9601(29) and 9607(a).

23. There have been and continue to be “releases” or “threatened releases” of “hazardous substances” into the environment at and from the Site within the meaning of Sections 101(14), 101(22) and 107(a) of CERCLA, 42 U.S.C. §§ 9601(14), 9601(22) and 9607(a).

**FIRST CLAIM FOR RELIEF  
(Recovery of Response Costs)**

24. Paragraphs 1 through 23, inclusive, are realleged and incorporated herein by reference.

25. The United States has incurred and will continue to incur response costs, as defined in Section 101(25) of CERCLA, 42 U.S.C. § 9601(25), and authorized by Section 104 of CERCLA, 42 U.S.C. § 9604, as a result of the release or threatened release of hazardous substances at the Site.

26. The response costs were incurred and will be incurred by the United States in a manner not inconsistent with the National Contingency Plan, 40 C.F.R. Part 300.

27. Rexmet is liable for response costs incurred and to be incurred by the United States in connection with the Site, pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

28. The United States is entitled to a declaratory judgment on liability for response

costs or damages that will be binding on any subsequent action or actions to recover further response costs or damages, pursuant to Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2), and the Declaratory Judgment Act, 28 U.S.C. § 2201.

**SECOND CLAIM FOR RELIEF  
(Injunctive Relief)**

29. Paragraphs 1 through 28, inclusive, are realleged and incorporated herein by reference.

30. The Regional Administrator of EPA, Region III, acting pursuant to his delegated authority, has determined that there may be an imminent and substantial endangerment to the public health or welfare or the environment because of the actual and/or threatened releases of hazardous substances at and from the Site.

31. The United States is entitled to such relief from Rexmet as may be necessary to abate the danger or threat to the public interest posed by the release or threatened release of hazardous substances at the Site, pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

**PRAYER FOR RELIEF**

Wherefore, the United States respectfully requests that this Court enter a judgment against Defendant as follows:

A. Order Rexmet to pay all response costs incurred by the United States in response to the release or threat of release of hazardous substances at the Site;

B. Enter a declaratory judgment on liability against Rexmet under Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2), that will be binding in any subsequent action to recover further response costs or damages;

C. Order Rexmet to perform the remedy at the Site selected in EPA's ROD dated August 10, 2000; and

D. Grant such other and further relief as the Court deems appropriate.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

Respectfully Submitted,

FOR THE UNITED STATES OF AMERICA

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